

TO: Clerk's Office

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

APPLICATION FOR LEAVE
TO FILE DOCUMENT UNDER SEAL

UNITED STATES

-v.-

23-MJ-668

MESSIAH ORTIZ AND DAJOUR WESTON Docket Number

SUBMITTED BY: Plaintiff Defendant DOJ ☒

Name: Assistant U.S. Attorney Elias Laris

Firm Name: U.S. Attorneys Office - EDNY

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Brooklyn, NY 11201

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INDICATE UPON THE PUBLIC DOCKET SHEET: YES NO ☒

If yes, state description of document to be entered on docket sheet:



A) If pursuant to a prior Court Order:

Docket Number of Case in Which Entered: _____

Judge/Magistrate Judge: _____

Date Entered: _____

B) If a new application, the statute, regulation, or other legal basis that authorizes filing under seal

Flight, public safety, and security concerns.

ORDERED SEALED AND PLACED IN THE CLERK'S OFFICE,
AND MAY NOT BE UNSEALED UNLESS ORDERED BY
THE COURT.

DATED: Brooklyn, NEW YORK

July 25, 2023

U.S. MAGISTRATE JUDGE

Marcia M. Henry

RECEIVED IN CLERK'S OFFICE

DATE

MANDATORY CERTIFICATION OF SERVICE:

A.) A copy of this application either has been or will be promptly served upon all parties to this action, B.) Service is excused by 31 U.S.C. 3730(b), or by the following other statute or regulation: _____; or C.) ☒ This is a criminal document submitted, and flight public safety, or security are significant concerns. (Check one)

7/25/2023

DATE

Elias Laris

SIGNATURE

WK:EL
F. #2023R00483

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA

- against -

MESSIAH ORTIZ and
DAJOUR WESTON,

Defendants.

----- X

EASTERN DISTRICT OF NEW YORK, SS:

GABRIEL ECHEVARRIA, being duly sworn, deposes and states that he is a Task Force Officer with the United States Department of Homeland Security, Homeland Security Investigations, duly appointed according to law and acting as such.

On or about July 25, 2022, within the Eastern District of New York and elsewhere, the defendants MESSIAH ORTIZ and DAJOUR WESTON, each one knowing that he had previously been convicted in a court of one or more crimes punishable by imprisonment for a term exceeding one year, did knowingly and intentionally possess in and affecting interstate or foreign commerce ammunition, to wit: eight .9mm Federal Ammunition cartridges.

(Title 18, United States Code, Section 922(g)(1))

The source of your deponent's information and the grounds for his belief are as follows:¹

¹ Because the purpose of this Complaint and Arrest Warrant is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

TO BE FILED UNDER SEAL

23-MJ-668

AFFIDAVIT AND COMPLAINT IN
SUPPORT OF AN APPLICATION FOR
AN ARREST WARRANT

(18 U.S.C. § 922(g)(1))

1. I am a Task Force Officer with the United States Department of Homeland Security, Homeland Security Investigations (“HSI”), and have been involved in the investigation of numerous cases involving the recovery of firearms and ammunition. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant’s criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about July 25, 2022, at approximately 1:50 a.m., members of the New York City Police Department (“NYPD”) 114th Precinct patrol were notified via department radio of a shot spotter activation in the vicinity of 24-04 41st Street in Queens, New York.

3. Officers responded to the location and identified (a) eight .9mm casings, (b) a .380mm casing, (c) one magazine with four live .380mm cartridges, and (d) one bullet fragment. At the location, officers retrieved video surveillance from a nearby building located on the corner of Astoria Boulevard and 41st Street, which showed that a man had fired multiple gunshots on the corner of 41st Street and Astoria Boulevard at approximately 1:50 a.m. on July 25, 2022. Officers identified two vehicles of interest: a white Mercedes G-class SUV (the “Mercedes”) and a red 2019 Dodge Charger (the “Charger”).

4. Officers also learned that a male gunshot victim checked in to Mount Sinai Queens Hospital (“Mount Sinai”) in the early morning of July 25, 2022. Officers arrived at the hospital and interviewed the individual, who identified himself to the officers as defendant DAJOUR WESTON.

5. I have observed video surveillance leading up to and following the shooting. Video shows that on the evening of July 24, 2022, at approximately 9:33 p.m., two men approached the entrance of a night club located on Astoria Boulevard South between

Steinway and 41st Street (the “Night Club”). The first was a Black man wearing a blue shirt with a yellow collar and beige shorts. Officers who arrived at Mount Sinai later that evening and met with defendant DAJOUR WESTON later reviewed the surveillance footage and positively identified this first man in the video as WESTON. The second man was a Hispanic male wearing a green hat, green shorts, and a white t-shirt with the words “went to ya hood and nobody knew u!!!” A United States Probation Officer who supervised defendant MESSIAH ORTIZ through July 25, 2022, and routinely had in-person interactions with him through the course of her supervision positively identified this second man as ORTIZ.

6. Video surveillance shows that at approximately 1:43 a.m. on the morning of July 25, 2022, defendants MESSIAH ORTIZ and DAJOUR WESTON begin arguing with a third person (“Individual-1”) inside of the Night Club. Video surveillance footage reveals that the argument spills into the street outside of the Night Club, where ORTIZ, WESTON, Individual-1, and others continued arguing. At approximately 1:50 a.m., near the corner of 41st Street and Astoria Boulevard, WESTON pulled a gun from his shorts and aimed it at Individual-1. Individual-1 then drew his own gun and fired a single shot at WESTON, striking him in the abdomen.

7. The video surveillance reveals that after defendant DAJOUR WESTON was struck, he dropped the firearm, picked it up, and handed it to defendant MESSIAH ORTIZ. ORTIZ then fired multiple rounds at Individual-1, who was fleeing southbound on 41st Street. ORTIZ then got into the Charger and fled the scene.

8. I have reviewed defendants MESSIAH ORTIZ’s and DAJOUR WESTON’s criminal histories. On or about December 18, 2018, ORTIZ pled guilty to attempted criminal possession of a weapon, in violation of New York Penal Law § 265.03, and

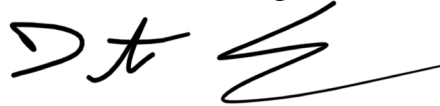
conspiracy to commit a Class B or C felony, in violation of New York Penal Law § 105.13, which offenses are felonies. He was sentenced to 2 years' imprisonment and 18 months of supervised release. In addition, on or about October 7, 2017, ORTIZ was convicted of attempt and conspiracy to commit bank fraud, in violation of Title 18, United States Code § 1349. He was sentenced in the Southern District of New York to one year and one day of imprisonment and 36 months' supervised release. On or about September 15, 2017, WESTON was convicted of aggravated assault in the state of Georgia, in violation of Ga. Code Ann. § 16-5-21, which is a felony. He was sentenced to 10 years' probation and a fine. On or about September 25, 2017, WESTON was convicted in the State of Jersey for manufacturing/distribution of a controlled dangerous substance for intent-marijuana, in violation of N.J. Rev Stat § 2C:35-5(A)(1), which is a felony. He was sentenced to 2 years' probation and a fine.

9. I have conferred with a Nexus expert, a Special Agent of ATF, who has informed me, in sum and substance and in part, that the eight .9mm Federal Ammunition cartridges recovered in this case were manufactured outside the state of New York.

REQUEST FOR SEALING

10. It is respectfully requested that this Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the application and arrest warrant, as disclosure would give the target² of the investigation an opportunity to flee from or evade prosecution, and therefore have a significant and negative impact on the continuing investigation and may severely jeopardize its effectiveness.

WHEREFORE, your deponent respectfully requests that the defendants MESSIAH ORTIZ and DAJOUR WESTON be dealt with according to law.



GABRIEL ECHEVARRIA
Task Force Officer, United States Department of
Homeland Security, Homeland Security
Investigations

Sworn to before me this
25th day of July, 2023



THE HONORABLE MARCIA M. HENRY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

² ORTIZ was detained after his indictment in Queens County Criminal court for the conduct underlying this Complaint.

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America

v.

MESSIAH ORTIZ and
DAJOUR WESTON

Case No. 23-MJ-668

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested) MESSIAH ORTIZ and DAJOUR WESTON,
who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☒ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Knowing and intentional possession in and affecting interstate or foreign commerce ammunition, in violation of Title 18,
Section 922(g)(1).

Date: 07/25/2023Marcia M. Henry

Issuing officer's signature

City and state: Brooklyn, New York

Hon. Marcia M. Henry

Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
at (city and state) _____.

Date: _____

Arresting officer's signature

Printed name and title

**This second page contains personal identifiers provided for law-enforcement use only
and therefore should not be filed in court with the executed warrant unless under seal.**

(Not for Public Disclosure)

Name of defendant/offender: _____

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (*name, relation, address, phone number*): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): _____

Date of last contact with pretrial services or probation officer (*if applicable*): _____

APPLICATION FOR WRIT OF HABEAS CORPUS

UNITED STATES DISTRICT COURT

UNITED STATES OF AMERICA

- against -

MESSIAH ORTIZ

Defendant.

☐ C
☒ Criminal Miscellaneous
 23-MJ-668

The undersigned ☒ Assistant U.S. Attorney ☐ Special Attorney hereby applies to the captioned court for the issuance of a writ of habeas corpus ☒ ad prosequendum ☐ ad testificandum ☐ in re a motion pursuant to 28 U.S.C. § 2255 and avers:

1. Name of detainee (and detainee number, if known):
 MESSIAH ORTIZ

2. Detained by ☐ Warden, New York Metropolitan Correctional Center, New York, New York
☐ Warden,
☒ Other: Warden, Vernon C. Bain Center, 1 Halleck Street Bronx, NY 10474
[Specify title of custodian and name and location of detention facility]

3. Detainee is ☒ charged in this district by ☐ Indictment ☐ Information ☒ complaint with,
 OR ☐ was convicted in this district of, violating Title 18, U.S.C. § 922(g)(1), OR ☐ is a witness not
 otherwise available by the ordinary process of the Court.

4. Appearance is necessary on Wednesday, July 26, 2023, at 2:00 o'clock P M ☒ in
 Courtroom Number 2A, OR ☐ before the Federal Grand Jury sitting in Room Number, of the United States
 Courthouse for this district, for ☒ arraignment ☐ plea ☐ trial ☐ sentencing
☐ in re a motion pursuant to 28 U.S.C. § 2255 ☐ the purpose of giving necessary testimony in the captioned proceeding
☐ other purpose(s), specifically

Sworn to before me this
 25 day of July, 2023

Elias Laris

Elias Laris

☒ Assistant United States Attorney
 Eastern District of New York

☐ Special Assistant United States Attorney

WRIT OF HABEAS CORPUS

☒ Ad Prosequendum ☐ Ad Testificandum ☐ In Re Motion to Vacate

The instant application is granted and the above-named custodian, as well as the United States Marshal for this district, his deputies, and all other United States Marshals and their deputies, is and are each directed to produce the named detainee, in civilian clothes, on the date, at the time, and in the place recited above, and thereafter to maintain the said detainee within the jurisdiction of this Court pending the satisfaction of this writ or the further orders of the Court.

Dated: Brooklyn, New York
 July 25, 2023

Marcia M. Henry

U. S. M. J.

CLERK, E.D.N.Y.

Deputy Clerk

SATISFACTION OF WRIT

The undersigned ☒ Assistant United States Attorney ☐ Special Assistant United States Attorney hereby requests that the instant writ of habeas corpus be satisfied and that the United States Marshal for the district be authorized and directed to return the named detainee to the above identified custodian.

Dated: _____, New York
_____, 2023 _____

SO ORDERED:

☒ Assistant United States Attorney
Eastern District of New York

☐ Special Assistant United States Attorney

U.S. M .J.

Dated: Brooklyn _____, New York
_____, 2023 _____

CRIMINAL ACTION NO.:

UNITED STATES DISTRICT COURT
DISTRICT _____

UNITED STATES OF AMERICA

- against - *Defendant.*

WRIT OF HABEAS CORPUS

UNITED STATES ATTORNEY

Marshal's Return

U.S. M .J.

DATED:

Other: ☐

☐ The detainee having been produced pursuant to the within Writ, the United States Marshal for this district is directed to

INTERIM ORDERS OF THE COURT